SPEECH OF MR. DOUGLAS.

OF ILLINOIS, On Mr. Soule's amendment to the Compromise.

IN SENATE, JUNE 26, 1850.

Mr. DOUGLAS. Mr. President, I propose to reply to so much of the argument of the Senator from Louisiana (Mr. Soule) as relates to the public lands of the United States within the limits of the State of California. I feel it my duty to do whatever I may be able to vindicate the bill against the charge that, in the shape in which it cams from the Committee on Territories, or with the amendment subsequently offered by way of abundance of precaution, the lands would escheat to the State of California, and that the United States would be divested of its title. I shall not occupy the attention of the Senate in discussing many other topics which were argued by the Senator from Louisians. What few

were argued by the Senator from Louisians. What few words I may have to say upon the question of boundary will be said when an amendment which I laid upon the table a few days ago may be taken up for action.

Now, sir, in regard to the position of the Senator from Louisians, that, under this bill, if it becomes a law, the lands there will escheat to the State of California. The argument by which the Senator attempts to maintain that position resis entirely upon the assumption that each State of the Union is an absolute sovereignty, and that sovereignty necessarily includes, and is inseparable from, ownership of the soil. I do not deem it necessary, for the purpose of this argument, to inquire how far the States of the Union are sovereignties. I understand that a sovereighty can do any and all acts not prohibited by the laws of nations, nor the laws of God. There are many acts that the States of the Union cannot perform, which do not come within these exceptions; many acts which involve the highest attributes of sovereignty : such as making war and peace, coining money, regulating commerce, and a great variety of other powers vested by the constitution in the United States. But, sir, I will not occupy time upon this point of sovereignty; the States of the Union may be said, if I may be permitted to use such an expression, to be limited sovereignties. That is to say, they are sovereign within the sphere of their appropriate duties, and to the extent that they are not restra

But passing to the latter part of the proposition, which implies that sovereignty necessarily includes ownership of the soil. This proposition is attempted to be main-tained by quotations from Vattel. It is not my purpose to question the high authority of that author; but it should be borne in mind that Vattel wrote of the laws of nations and the principles of government as they existed at the time that he lived. At that period the feudal system was in full vigor. It constituted the basis upon which all European Governments were constructed. According to the theory of that system, the sovereign was owner of all the soil within his dominion. He divided out his territory among his nobles, who become his vassals, and held it on condition of rendering military or other service, and those nobles divided it again between their vassals on like conditions. Hence the sovereign was understood, at least by a fiction of law, to be the owner of all the soil within his kingdom, although other system when he indited the passage which has been quoted from his work to sustain the position now assumed by the Senator from Louisiana. I have only to remark, then, that the feudal system is not in existence here. It was swept away by the revolution, and the last vestiges of it are gone All of our titles are allodial. We hold our lands by fee simple tenure, entirely independent of the Government, and without any condition of the rendering service or paying homage therefor.

tion with reference to the States of this Union, we have never acted upon the principle that ownership of the soil is an essential ingredient of sovereignty; not even before the adoption the constitution of the United States. Some States of the Union were permitted to hold lead within the boundaries of others, as Connecticut did within New York, and subsequent ly in Ohio, and as Massachusetts now does within the State of Maine. In other States, boards of proprietors, whose titles were acquired prior to the revolution, continued to hold the public domain, and do at this day, as is the case in New Jersey. Hence, sir, we have never acted upon the principle that the sovereignty necessarily includes the ownership of the soil. When the revolution took place, and a new system of government was called into existence, all the vacant and unappropriated lands within the different States of the Union became the property of those States, for the palpable reason

that there was no other owner.

But the operation of this principle only extended to the vacant and unappropriated lands, and divested the title of no person or power on earth except England and her adherents, with whom we were at war. The only dispute that arose in regard to these lands had reference to the territory northwest of the river Ohio. That territory, or at least portions of it, terms extended westward, according to the courses indicated, New York, Connecticut, and the other States interested, of said territory to the United States. I have in the volume before me all these deeds of cession, which vest in the United States the title to all the lands in the territory northwest of

From this review, it will be seen that the United States ted States; none of these subjects are mentioned or alluded Government, which is the largest land owner, perhaps, in the From this review, it will be seen that the United States world, has never held one foot of land by virtue of its sovereignty. Sovereignty was not the title by which we have claimed or held one acre of our public lands. We hold the lands by virtue of the same title that an individual possesses his own estate. The Government holds its lands by deeds of conveyance. In the case of the Northwest Territory, she held it by a deed of cession, to which I have referred. In the case of Tennessee, she held it by a deed of cession from North Carolina. In Mississippi and Alabama, she holds the lands by a deed of cession from Government of the United States is apparent when we look into the history of our legislation of the condition upon which the State could receive her school lands and the other gratuities. The great importance of this provision to the Government of the United States is apparent when we look into the history of our legislation of the condition upon which the State could receive her school lands and the other gratuities. by a deed of cession from Georgia. The lands in Louisiana territory, including the States of Louisiana, Arkansas, Miscouri, Iowa, and the vacant territory, she holds by cession from the Government of France. Florida she acquired by cession from Spain and New Mexico and California by cession from the republic of Mexico. Hence all of the public lands are held by the Government by purchase, by cession, by deed of conveyance, upon an adequate consideration, the same as any individual holds his estate, and not by virtue of the sove-

reignty of the nation. Now, having acquired our title to the lands by this

fae next question which arises is, whether the United States can hold and dispose of them the same as an individual. The constitution itself answers that inquiry. That instrument provides that "Congress shall have power to dispose of and make all needful rules and regulations respecting the terri-tory or other property belonging to the United States." This provision authorizes the United States to be and become a land owner, and prescribes the mode in which the lands may be disposed of and the title conveyed to the purchaser. ongress is to make the needful rules and regulations upon this subject. The title of the United States can be divested by no other power, by no other means, in no other mode than that which Congress shall sanction and prescribe. It cannot be done by the sction of the People or Legislature of a Territory or State. These are modes unknown to the constitution. It cannot be done under the clause of the constitution which provides for the admission of new States, for another portion of the same instrument confers the power, and points out the mode of its exercise, in express terms, which excludes the idea that the same power can be derived by implication from

The first three are the same as those of Ohio, but Congress another portion of the constitution. Hence the admission of a State into the Union under the clause concerning new States of and for a seminary of learning, and four sections for the cannot be construed as an alienation of the public lands. The the practical operation of the Government, in all its departments, during its entire history. I propose to review in detail our legislation upon this subject, that it may be seen that the Committee on the Territories did not act unadvisedly or recklessly when they directed me to bring in the bill for the admission of California without any provision in relation to the public lands. The Senator from Louisiana has assumed, and predicated his argument on the assumption, that, with the exception of Arkansas, the precedents justify the conclusion He assumed this to have been the current of authority upon this question, without deeming it necessary to investigate our legislation, and see how the record presented the facts. It will be my purpose to inquire into these different cases, to ree how far our legislation will justify him in

Union in 1796, the Government of the United States has been disposing of the lands within the limits of the States thus admitted, giving deeds to the purchasers, and those purchasers have been prosecuting suits in our courts by which they enforce their title. Each and every case of ejectment,

nessee? If so, that gallant State never yet was wise enough to know her rights and claim the lands. No lawyer was to know her rights and claim the lands. No lawyer was ever astute enough to comprehend the point by which he could defeat his adversary, in an action of ejectment where the plaintiff must rely upon the strength of his own title; the courts have been so blind that they entirely overlooked it, and for nearly sixty years all the Departments of her Government. ment have gone on sanctioning and recognising those titles executed by the Government of the United States as being conclusive to the lands within the State of Tennessee.

I pass now to the next case The next State admitted was

Ohio, It has been referred to as having contained a compact with the Government of the United States, securing the title to the public lands. There seems to have been a misapprehension upon this point, not only in reference to Ohio, but in regard to most of the new States of the Union. I have often heard the compacts with those States referred to an having secured to the United States the title to the public domain. The impression seems to prevail to some extent, not only that such compacts actually exist, but that they were entered into as conditions upon which those States were received into the Federal Union; whereas, in fact, there are no such compacts, except in two cases, and these were entered into under peculiar circumstances and with reference to entirely different objects, as I will show before I conclude.

But to return to the case of Ohio. The act for her admission was passed on the 30th of April, 1802. The first

mission was passed on the 30th of April, 1802. The hist section authorizes the inhabitants "to form for themselves "a constitutional State government, and to assume such 'name as they shall deem proper, and the said State, when 'formed, shall be admitted into the Union, upon the same footing with the original States, in all respects whatever. The second section prescribes the boundaries of the new State. The third, fourth, and fifth sections direct the mode of electing and organizing the Convention. The sixth sec-tion provides that until the next general census the said State shall be entitled to one representative in the Congress of the United States. We now come to the seventh and last section which is the one that bears directly upon the point under dis-cussion. And as it is the original from which the acts autho rizing the admission of nearly all the other new States wer copied, I will read it :

" 7. And be it further enacted, That the following prop sitions be and the same are hereby offered to the Convention of the Eastern State of said territory, when formed, for their free acceptance or rejection, which, if accepted by the Convention, shall be obligatory upon the United States."

Then follows the three propositions:
"1st. That Congress will grant the 16th section in elownship for schools.
"2d. A grant of the six miles reservation, including

"2d. A grant of the six infless reservation, including the Salt Springs to the State.

"3d. One twentieth part of the nett proceeds of the sales of the public lands lying within said State to be applied in making roads leading to the Atlantic."

Then comes a proviso in the following words:

"Provided always, That the three foregoing propositions herein offered, are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable, without the consent of the United States, that every and each tract of land sold by Congress, from and after the 30th day of June next, shall be and remain event from any tay laid by and next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or other purpose whatever, for the term of five years from and after the day of sale."

Here you have the whole act. The first section admitt the State into the Union on an equal footing with the original States in all respects whatever, without any subsequent legislation. This being done, Cougress, in the seventh section, was claimed by various States as being within their respective limits. Nearly all their charters from the British Crown in ceptance or rejection." The State was at liberty to do the one thing or the other-to accept or reject-and in either event pby of the country came to be better understood, and the she became entitled to the school lands, the sait springs, and phy of the country came to be better understood, and the coundaries of the colonies, or States, as they were now called, were ascertained, it was discovered that, in the territory aliqued to, they run across and into, and lapped over each other, so that the same district of country was actually embraced within the chartered limits of three or four different States. This difficulty was solved and dispute amicably settled, upon the recommendation of Congress, by a cession by Virginia, New York, Connecticut, and the other States interested, of these foregoing propositions bearing offend are connecticut. three foregoing propositions herein offered are on conditions.

What are the conditions? Not that the State will never interfere with the primary disposal of the soil—not that she will disclaim all right to the public lands within her limits not that she will never tax the lands and property of the Uni

> these things were necessary. But it was deemed necessary to stipulate that "every such tract of land sone by Congress" should remain exempt from taxation "for the term of five years from and after the day of sale." Congress deeme day. Prior to 1820 the public lands were sold on a credit at two dollars per acre, and the purchaser made his payments i instalments. But for this provision the lands would have been taxable from the day of sale, and, in default of the payment of the taxes, the State might have sold them and se-cured tax titles to them before the United States would have received the purchase money. To guard against this contingency Congress imposed the condition and required the State to assent to it before she could receive her school lands, salt springs, and five per cent. of the proceeds of sales. For the same reason you will find compacts containing this con-dition with all the new States admitted from that time up to 1820, when the credit system was abolished, and consequently the necessity for this stipulation ceased. I have all the cts before me, and have examined them critically, and find that, during that period, no new State was permitted to receive the sixteenth sections for schools and the other usual donations without being required first, in the most formal manner, to enter into this stipulation. Since the credit system was abolished there has been a carelessness, and in some instances an omission to enter into any compact at all, from the conviction that it was entirely unnecessary. I will briefly refer to each one of these acts, in order to show that I am correct in the principle I deduce from them.

The act authorizing Indiana to form a constitution and State Government, and to come into the Union, was copied from that of Ohio, with some slight variations. The first section provides for the admission "on the same footing with the original States, in all respects whatever." The sixth secwas liberal enough to add two others, to wit : one town title of the United States cannot be divested under that clause of the constitution. Under it the State may be admitted into the Union, but still it would be necessary for Congress, unspecified by compact that every and each tract of land sold by der the other provision of the constitution to which I have re-ferred, to "make needful rules and regulations," in order to transfer the public lands. The right to alienate the lands lation about the ownership of the soil-none in regard to the cannot be derived from any other source. It cannot be drawn right of the State to tax the property of the United States from any other portion of the constitution—much less from the civil law or the decree of the King of Spain. This quest come into the Union, approved April 18th, 1818, is a transcript tion has been settled, by authority and precedent, as fully and of the Indiana act, with slight variations, which I will notice conclusively as it is possible to settle any principle of law by The first section, authorizing her to form a Constitution the legislation of the country, the decisions of the courts, and and State Government and to come into the Union on an It also contains the same provise that "the four foregoing propositions herein offered are on the conditions" that the State will agree by compact, "that every and each tract of land sold by the United States" shall remain exempt from taxation ception of Arkansas, the precedents justify the conclusion
"for the term of five years from and after the day of sale;"
that the admission of a State, without any compact to the
contrary, operated as a forfeiture of the lands to the State thus while they continue to be held by the patentees, should not be taxed for three years after the issuing the patents; and the still further condition that the lands of non-resident citizens of the United States should not be taxed higher than the ent cases, to ree how far our legislation will justify him in that assumption.

And, first, I have to remark that this question is not a novel one. It has been a thousand times decided—judicially decided. For, ever since the admission of Tennessee into the collect. I will now invite the attention of the Senate to the South-western States, which were admitted into the Union prior to

6th. That after the admission of said State into the Union, its laws shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and judicial and legislative written proceedings of the United States are now published and conducted.

7. That the Convention shall declare, on behalf of the people of said Territory, by an ordinance irrevocable, that they disclaim all right or title to the waste or unappropriated lands lying within the said Territory, that the same shall be and remain at the sole and entire disposition of the United States.

lying within the said Territory, that the same shall be and remain at the sole and entire disposition of the United States.

8th. That each and every tract of land sold by Congress shall be and remain exempt from any tax levied by authority of said State, for any purpose whatever, for five years from and after the day of sale.

9th. That the lands belonging to the citizens of the United States residing without said State, shall never be taxed higher than the lands belonging to persons residing therein.

10th. That no tax shall be imposed on the property of the United States.

United States.

11th. And that the river Mississippi and the navigable rivers

and waters leading into the same, or into the Gulf of Mexico, shall be common highways, and forever free as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, or toll therefor imposed by said State.

Now, sir, I ask if it is probable that these eleven condi-Now, sir, I ask if it is probable that these elevel condi-tions were prompted by the apprehension that they were ne-cessary in order to save and secure the rights of the United States in respect to the public domain or otherwise? Could such have been the motive? Was it necessary that the people of Orleans Territory should have adopted the consti-tution of the United States before they could be permitted to ana? And, having adopted the constitution as a whole, was it necessary to proceed to re-adopt it in detail? Would not the right of trial by jury, and the privileges of the writ of habeas corpus, have been as secure and sacred under the constitu-tion of the United States, without being specially reinserted,

dent and wise to insert all these things in the law, and require the convention to agree to them.

The inhabitants of that territory had recently belonged to

The inhabitants of that territory had recently belonged to a foreign Government—they were aliens to us in language, in religion, in laws, in habits of thought, in all the principles of political science, and in every thing that concerned the practical workings of our system of government. It may have been deemed wise and proper, therefore, by the Congress of that day, to embody some of the fundamental principles, axioms, and truisms of our Government in the act for their admission, with the view of impressing them more firmly upon the minds and consciences of those people. The same remarks will apply with still greater force to the stipulations in respect to the public lands and the navigable waters—not that these stipulations were necessary to protect our rights, but expedient in order to teach them their duties. The conbut expedient in order to teach them their duties. The connabeas corpus, would have had the same legal effect in that State without as with the compact. And so, I apprehend, it would have been in respect to the public lands and navigable waters. Surely, in a legal point of view, there could have been no more necessity for these stipulations in Louisiana than in Ohio, Indiana, and Illinois, where, as we have seen, no such conditions were required or thought of stitution of the United States, the trial by jury, the writ of habeas corpus, would have had the same legal effect in that

and the writ of habeas corpus, is omitted, and the provisions in regard to the public lands and navigable waters are retained. These two States, Louisiana and Mississippi, constitute

such stipulations.

The act authorizing the inhabitants of Alabama Territory Territory. The first section authorizes the inhabitants to form, a constitution and State government, and declares "that the said territory, when formed into a State, shall be admitted into ment, and see how it affects the question. It was ori of the said section or not. She was left "free" to accept or tent authority to contract. mind that these stipulations were required, not as conditions will accomplish the same purpose. I now dismiss the subwould make her the donations of land and money after she growing out of the action of our Government.

The act authorizing Missouri to form a constitution and

The act authorizing Missouri to form a constitution and come into the Union was passed March 6th, 1820. The first section provides for the admission of the State "upon an equal footing with the original States in all respects whatever." The fourth section contains a "proviso:

"That the constitution, whenever formed, shall be republican, and not repugnant to the constitution of the United States, and that the Legislature of said State never shall interfere with the primary disposal of the soil by the United States, nor with any regulation that Congress shall find necessary for securing the title in such soil to the bona fide purchasers; and that no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents." taxed higher than residents."

In order to guard against misapprehension, it must be observed that this provise, like the third section of the bill under consideration, had the force of law, but was not a compact It was not submitted to the people of the State in the form of a proposition for an ordinance to be accepted by them. The assent of the people was never asked nor given. In that retooting with the same provisions in the bill before the Senate. But in the sixth section of the act, there were propositions tendered to the people of Missouri, "for their acceptance or rejec-tion." These propositions were five in number, and related to the sixteenth sections for schools; the salt springs; the five per cent. of the nett proceeds of the sales of the public here per cent. of the nett proceeds of the sales of the public lands, four entire sections of land for the seat of government, and thirty-six sections, or one township, for a seminary of learning. Then follows a provise to this section, "that the five foregoing propositions herein offered, are on the condition that the convenion of said State shall provide by an ordinance, irrevocable without the consent of the United States," that every and each tract of land sold by the United States," shall "remain exempt from taxation for the term of five years from and after the sale, and the bounty term of five years from and after the sale; and the bounty lands granted, or hereafter to be granted, for military services lands granted, or hereafter to be granted, for military serviced during the late war, (1812,) shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from taxa ion for the term of three years from and after the date of the patents respectively." Here we aforesaid from taxa ion for the term of the we and after the date of the patents respectively." Here we find that even while Congress was engaged in making a comfind that even while Congress was engaged in making a compact with the State in regard to taxing bounty and other lands after the title of the United States was divested, it was not deemed necessary to insert any provision in respect to the title of the United States to the public domain, or in respect to the right of the State to tax the lands of the Government. The men of that day were not wise enough to conceive that the moment a State was admitted into the Union upon an

State admitted after the period to which I refer was Michigan. The set of admission was approved June 15th, 1836. The 4th section provides that nothing in the act contained should be construed to authorize the Legislature of said State to interfere with the primary disposal of the public lands by the United States. The act also provides that the State was admitted on the condition that she should agree to the change of the boundaries prescribed; but there was no provision requirements that fourth section, respecting the public ing her to agree to the fourth section, respecting the public lands. On the same day, the act for the admission of Arkansas became a law. The eighth section of that act, like the third section of the bill before the Senate, declared the State to be admitted on the "express condition that the people of said State shall never interfere with the primary disposal of the public lands within the said State, nor lavy any tax on the lands of the United States within such State." This clause was declared by Congress to be a condition to the admission of the State, but the people were never required to assent to it, or to enter into any compact to that effect. The act for the admission of Florida and Iowa into the Union was approved

first section is in the following words: "That the States of Iowa and Florida be and the same are hereby declared to be States of the United States of America, and are hereby admitted into the Union on an equa footing with the original States, in all respects whatsoever."

Government two States were admitted in the same act.

The second section changes the boundaries of Iowa, and the fourth section, in reference to this change, requires Iow to agree to the provisions of the act. Florida was not re tion of the United States, without being specially reinserted, as with it?

And, again: Has this Congress any power under the constitution to command a State of this Union in what language she shall conduct and publish her legislative and judicial proceedings? Upon all these points, I apprehend, there can be no doubt in the mind of any Senator present. There must then have been some other considerations growing out of the history and condition of that people, which rendered it prudent and wise to insert all these things in the law, and quired to assent to it, because no change was proposed in her ent boundaries were agreed upon, and a compact was entered into in respect to the school lands and the other usual dona-

tions to new Ststes.

The act admitting Wisconsin into the Union, was approved March 3, 1847. The first section declared Wisconsin to be one of the United States, and received into the Union on an equal footing with the original States; and the fourth section dec that the State was admitted on the fundamental condition that the constitution which had been formed and had not received the sanction of the people should be adopted by them. This was the only condition required, and it was not complied with, as the people rejected the constitution, in consequence of certain provisions in it is relation to banking, homestead exemption, and some other matters of internal policy. A new constitution was formed, however, and the State admitted on the 29th of May, 1848, without any conditions.

Now, sirs, I have given you a detailed exposition of th

no such conditions were required or thought of.

The act authorizing the inhabitants of Mississippi Territory to form a constitution and State government, and to tory to form a constitution and State government, and to come into the Union, was approved March 1, 1817. The first section of the act is in the very terms of those I have quoted in regard to Ohio, Indiana, and Illinois. The fourth be articles of compact between the original States and the section is a literal copy of a portion of the third section of the Louisiana act. The clause requiring them to adopt the constitution of the United States, and to secure the trial by jury never interfere with the primary disposition of the soil, nor

in regard to the public lands and navigable waters are retained. These two States, Louisiana and Mississippi, constitute the exceptions to the general current of authorities, and the departure from the other precedents must be accounted for by departure from the other precedents must be accounted for by the peculiar circumstances to which I have referred. And in this connexion it must be borne in mind that Indiana followed Louisiana in the order of their admission, and that Illinois Louisiana in the order of their admission, and that Illinois Alabams, Missouri, Arkansas, Florida, and Iowa? The organization of the admission of Tennessee, Alabams, Missouri, Arkansas, Florida, and Iowa? The organization of the admission of the order of their admission, and that Illinois any compact as a condition to the admission of Tennessee, Alabams, Missouri, Arkansas, Florida, and Iowa? The organization of the order of their admission of the order of the order of their admission, and that Illinois any compact as a condition to the admission of Tennessee, Alabams, Missouri, Arkansas, Florida, and Iowa? spect to those States. And still if I can show any one State in which there has been no such compact, and that the title of to form a constitution and come into the Union was approved in which there has been no such compact, and that the title of March 2, 1819. It is a transcript of the Ohio act, with such

said territory, when formed into a State, shall be admitted into ment, and see how it affects the question. It was orithe Union, upon the same footing with the original States in ginally adopted by the Congress under the articles of Confepropositions to the Convention "for their free acceptance or rejection." Then follows the sixteenth section for schools, the salt springs, the five per cent. of the nett proceeds of the sales of public lands, and the township for a seminary of learning, &c. as in the States to which I have already referred. It will be observed that the first section authorized the States to which I have already referred. be observed that the first section authorized the State to come a compact between various parties, in point of fact it was neinto the Union whether she accepted the terms and conditions ver adopted by but one of them, and that one without compe-

Early in the first session of the first Congress that assem reject. If she accepted the propositions, she secured the do-nations of land and money. If she rejected them, she lest the whole, but still came into the Union. The conditions ment of the territory northwest of the river Ohio" was passed the whole, but still came into the Union. The conditions upon which Alabama received these donations were somewhat different and more numerous than those imposed upon Ohio, Indiana, and Illinois. She was required to disclaim all right and title to the public lands lying within her limits, together with her right to tax them; also, a stipulation against taxing the property of non-residents higher than residents, and the usual stipulation against taxing the lands sold by Congress for the conditions was made for carrying the ordinance had the same validity, therefore, as any other act of Congress for the government of the Territories, and no more. It was no more a compact in the legal sense of the term than the third section of the bill before the Senate. If the ordinance was sufficient usual stipulation against taxing the lands sold by Congress for the conditions.

I am aware that these dry details must have been tedior and wearisome to the Senate. They have been still more s to me. Yet they were essential to a clear and full elucidation of the subject. The question must be decided upon American authority, and not upon the abstract ideas of Vatiel, or the antiquated notions of the civil law, or of the feudal system. We act with reference to our own institutions, and upon the principles of our own Government. When it becomes my duty as chairman of a committee of this body to report a bill for the admission of a new State, I review the recedents under our own constitution; I examine the pracice in other cases, and trace the history of our legislatio upon the subject from the formation of the Government; I look into the action of all the departments of the Government, and examine the decisions of the courts; and when if find there is one unbroken chain of authority upon the subject, sunning through our entire history as a nation. I do not besibring in a bill in accordance with the examples of thos who have gone before.

Now, sir, I have a few words to say upon the other branch of the question in regard to the civil law. But before I pro-ceed to that, I must be permitted to make a remark or two upon the ordinance of the State of California, upon which the Senator commented so freely. In the first place, that ordi-nance is not before as for our action. The bill neither rati-fies nor rejects it. Then how could it be properly drawn into the debate as an argument for or against this bill? It has nothing to do with the bill. When the question shall arise whether that ordinance shall be assented to or not, it, will be proper to examine its different provisions, and inquire whether we shall accept or reject it. But until then it can have nothing to do with this question. And yet, sir, the Senator deveted a large portion of his speech to a critical analysis of the ordinance; and in one portion of it, he will par-don me for saying that I think his criticism was hardly jus-tifiable. It was upon that portion in which a verbal error had been committed by the young gentleman who made the copy.

A copy was presented here which could not be acted upon before the original arrived. A slight discrepancy was detected between the copy furnished and the one in the volume of debates; and that error is seized upon here to excite a preju-dice against the people of California, by the innuendo tha a stupendous fraud was in contemplation. No direct charge is made upon any body, but the intimation is thrown out that some enormous fraud might have been perpetrated under cover of those two copies of the ordinance.

Sir, I think if I had made the discovery, and the exple-

nation was given that it was a mere verbal error of the young man in making the copy, I should have dropped it there, without attempting to fasten upon the people of California the odium of an intended fraud upon Congress. But since that Senator has brought that ordinance into this debate, I have some use which I desire to make of it. That ordinance refutes the last half of his argument. He attempted to

"Resolved, (as the deliberate opinion of this Convention,)
That the public domain within the limits of this State, in
right and justice, belongs to the people of California, and
the undisturbed enjoyment thereof ought to be secured to

I asked the Senator from Louisiana, during the delivery of his speech, whether that resolution was adopted by the Convention. He said no, for the reason that it was not deemed prudent to set up their claim at that time, lest they might not be received into the Union, and that the resolution was rejected solely on that ground. Now, let us look into the debate, and see whether the discussions at the time sustain this declaration. I read from the volume of debates, page

"Mr. McCarver's resolution in relation to the public lands

"Mr. McCarver's resolution in relation to the public lands was then taken up.

"Mr. Sherwood. I shall vote against this resolution. I think these lands belong to the Government of the United States. They cost the Government fifteen millions of dollars; and although it may be very well for us to ask Congress to grant them to the State of California, inasmuch as she had no appropriation for the support of a government, I think we cannot say that of right they belong to California.

"Mr. Stewart. I certainly cannot vote for the resolution. It is a doctrine broached some twenty or thirty years ago—a doctrine which can never prevail in the Congress of the United States. It may be popular in the Western States; but it is in open violation of the constitution of the United States.

"The question was then taken, and the resolution rejected."

This is the entire debate. No man spoke in favor of the

March 3d, 1845. For the first time in the history of the

ed States. It may be popular in the Western States; but it is in open violation of the constitution of the United States. "The question was then taken, and the resolution rejected." This is the entire debate. No man spoke in favor of the consistence of the committee which reported this bill, from the cause of having brought forward a measure the effect of unanimous. Yet, sir, in the face of this debate, and the vote following it, the Senator from Louisiana tells us that the Convention were in favor of the principle of the resolution, and were only induced to reject it from motives of prudence, with the view of setting up the claim hereafter! The debates and proceedings of that convention justify no such charge against the honor and integrity of its members. The insinuation is denounced as unfounded and unjust by the record itself. They set up no claim to the lands, but with great unanimity repudiated the doctrine, when advanced by one of its members.

Sir, let us go a little further into the proceedings of the Convention. That is not the only resolution which was brought forward. rought forward. Mr. Stewart moved the following :

Mr. Stewart moved the following:

Resovied, That the Congress of the United States be and they are hereby respectfully, but earnestly solicited, to give up to the people of California for a series of years, or so long as may be deemed expedient, all revenue which may be derived from the renting, leasing, or otherwise authorized occupation

of the gold placers. The other resolutions request that the United States will

ever sell or part with its title to the mines in California, but

will throw them open to all citizens of the United States, upon paying a reasonable rent, which rent they ask may be paid into the Treasury of California for a limited period, until their revenue from other sources shall be sufficient to defray the expenses of their State Government.

And what became of these resolutions? They were also voted down as asking more than would probably be granted to them, and the ordinance to which the Senator has referred was substituted in their place. Hence you find that the Convention of California neither claimed the lands as her Convention of California neither claimed the lands as her convention of California into the Union, and am unable to comprehend why it is that you are disposed to deal with so much more rigor in the case of California than you have supplying for admission. Why is it that she should be so harshly dealt by? Has she no claims upon your sympathies and your justice? Is not your faith and your honor pledged to California to give her government and protection? How, sir, have you redeemed that pledge? How have extended to her is the taxing power; the only administrators of justice you have sent her are the tax-ga-

was substituted in their place. Hence you find that the Convention of California neither claimed the lands as her own, nor even asked the Government of the United States to give them the proceeds for a limited time. They asked donations for schools, for internal improvements, and such other purposes as were necessary in new States. They stopped there, willing to put themselves upon the same footing with the other, States, when they came into the Union, with the exception that they thought they were entitled to a larger. with the other, States, when they came into the Union, with the exception that they thought they were entitled to a larger quantity in consequence of their peculiar position. The constitution of California is no less explicit, so for as the title of stitution of California is no less explicit, so for as the title of the United States to the land is concerned. It recognises our jections, and enforce them with a rigor never known or attitle to the fullest extent by the clearest implication, if not in tempted to be exerted against any other State asking admis-

direct terms.

Article 9 of the constitution provides that—

"The proceeds of all lands that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States under the act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sales of the lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State."

These constitutional provisions clearly show that the nec-

These constitutional provisions clearly show that the peo ple of California, as a people, never dreamed of seizing or claiming any portion of the public lands, under any of these antiquated notions of State sovereignty that are now being promulgated. She repudiates the doctrine, and it is unjust Now I have a few remarks to make about the civil law to which the Senator has referred. He told us that by the civil

law, which was the law of Spain, the king was the owner of the mineral lands within his dominions. Well, I suppose this will be conceded, and, as a consequence, by the revolution of 1821, all the rights of the king descended to the Republic of Mexico; and by the treaty of Guadalupe Hidalgo, the rights of Mexico vested in the United States. Hence, the United States have the same right in the public demain in California that the King of Spain had, before the revolution, and that the Republic of Mex.co possessed at the late of the treaty of peace. We have the same rights; no date of the treaty of peace. nore, no less. Now, sir, I do not deem it necessary to stop to inquire what these rights may be. If we have no rights then the Government has nothing to lose, nothing to forfeit by the admission of California into the Union. If we have rights, they are secured under this bill, according to the auorities I have cited.

But, says the Senator, Philip the Second of Spain issued decree upon the subject, the translation of which the Senato has been courteous enough to favor me with: "It is our pleasure and will that all subjects and person

"At is our pleasure and will that all subjects and persons whether natives or Spaniards, of whatever nature or condition, rank or dignity, shall be permitted to extract gold, silver and other metals from the mines, freely and without hindrance in all parts of the world whatsoever."

The Senator says this decree has been held and prone by the leading jurists of Spain to be irrevocable. This de-cree then opened all the mineral lands of Spanish America to the whole world, and invited all mankind to come and dig and work the mines, by paying the prescribed rent. The Senator then bases his argument on the assumed fact that the decre was irrevocable, and proceeds to portray the consequences resulting from that position. He says that if this position be correct, all mankind have an inalienable right to work the gold mines of California; that the Chinese, and the Hindoos, and the Hottentots—the Chilians, the Peruvians, and the Sandwich Islanders—all have an inalienable right to extract gold from those mines. I was glad that the Senator cited Spanish authority for this construction of the decree of Philip the Second. He was too modest to tell us his own opinion upon that point; but assuming other authority that the gold mines are lost to us forever.

Well, sir, if this be irrevocable, then they are open according to the decree to the whole world, and all mankind have an

Well, sir, if this be irrevocable, then they are open according to the decree to the whole world, and all mankind have an inalenable right to go and dig and work them. But to what conclusion does this lead? And what is the Senator's remedy for the evil? His amendment does not reach the case. It provides that there shall be a compact between California and the United States, securing these mines to us. Whysir, if his argument be sound, what right have California and the United States, securing these mines to us. Whysir, if his argument be sound, what right have California and the United States, securing these mines to us. Whysir, if his argument be sound, what right have California and the United States, securing these mines and evidence at an early period.

See and the rest of mankind, to whom the genleman alluded year trends, as being entitled to go and work these mines? If your doctrine be true, you prove more than your own amendment can remedy. If that decree be irrevocable, every human being upon the face of this wide globe has an inalienable right in these mines, and no power short of unanimous concurrence an ever secure the benefits of the mines to the United States. Your remedy falls as far short of reaching the evil as either the bill reported by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee on Territories or the one introduced by the Committee of Thirteen.

But, sir, I am not willing to assert the infallibility of these dittinguished Spanish jurists, who have expressed the opin ion that a mere lease, during the pleasure of the language employed. The most you can make of it is, that it is a prediction to the committee of the language employed. The most you can make of it is, that it is a prediction to the committee o

or any other form of action in which the title of land was involved, which has been brought in these nees States, is a case in point testing the waither of the title of the United States as in the title of Barbard and the Continuous and State States when the State was not authorizing the State of Tennesse into the United States has been on case (and who does not know that there have been thousands), where, start as the been on case (and who does not know that there have been thousands), where, start as the been of the title of the purchase has been admitted into the United States has been admitted into t

cumstances.

But, sir, could California take these mines under the ordi-But, sir, could California take these mines under the ordinance she has made? The bill of 1841, granting 500,000 acres of land, gives a right to the State to select only those which were in market, and which were not reserved from sale. I need not tell the Senator that all mineral lands are reserved from sale—reserved by law; and no State under the act of 1841 was permitted to select mineral lands of any description as part of the 500,000 acres. My own State, with the richest lead mines in the world, unentered and unoccupied, was prohibited the privilege of entering those lead mines under the act of 1841. The State of Missouri was not permitted to enter the copper and iron mines within her limits, under that act, nor was the State represented by the distinguished Senator from Michigan (Mr. Cass) allowed to take the copper mines of Lake Superior, under the same act. Mineral lands, therefore, are excepted under the operation of that act; and hence California could not have seized upon the mines, if she had tried, or been disposed to do so. Besides, sir, I take it for granted that when we come to make a compact with California, we will provide for all these things in the Senator's speech which relate to the public lands in Califor-

resolution. Not even the author of it had the course to defend it. It was rejected without a division, which is an indication that the vote must have been very nearly, if not quite, unanimous. Yet, sir, in the face of this debate, and the vote the Senator from Louisiana should have made the assault of this Union, and sanctioned by the practical exposition of the Government during its entire history, cannot settle a legal question, I ask what sort of authority does the Senator from Louisiana require in the courts of New Orleans to convince the judgments of those courts? If there ever was a legal question which was put beyond the reach of disputation by the weight of authority, it is the very question which the Senator has raised as an objection to the bill before the Senate.

In conclusion, sir, I will only say that I regret to see such extraordinary efforts made to raise up objections in the way of the admission of California into the Union, and am unable to comprehend why it is that you are disposed to deal with second

sion into this Union. Sir, if the people of California have no claims upon your sympathies, you must recollect that they have a right to de-mand justice at your hands. What objection has been urged to the admission of California that did not exist in some one or more of the States which have already been admitted into the Union? I know of none. I have listened attentively to the whole debate. I have noted the objections, one by one, as they have been advanced, and I have heard no objection which with the hard how heard no objection. which might not have been urged with equal force, but was not considered insuperable in reference to other States. You must, therefore, depart from established usage, abandon the precedents, and overturn the authorities, before you can exrecedents, and overturn the authorities, before you can ex-clude California from the Union. What has she done to jus-tify this treatment? Sir, I fear the world will come to the conclusion that her sin—her only crime—was that she chose, in the plenitude of her wisdom and power, to exclude the

institution of slavery from her borders. A SENATOR. That is it.

Mr. DOUGLAS. The world will be likely to come to this conclusion, because they will be unable to perceive any other objection which you have not overcome in other cases. California had a right to exclude or admit slavery as she pleased, fornia had a right to exclude or admit slavery as she pleased, and I, as the representative of one of the States of this Union, have no right to vote sgainst her because of the choice she may make in this respect. I know it is denied that her admission is opposed on this ground, and I have had hopes that our action would satisfy the public that there were no grounds for suspicion or apprehension in this respect. But, sir, when you investigate the points, when you take up the objections in detail, when you see that they have all existed in some form in other States and did not in their case constitute is necessarily to be a suppose that they have all existed in some form in other States, and did not in their case constitute insupera-ble objections, I fear that we will be driven—unwillingly driven—to place her rejection—if, indeed, she shall be rejected—upon the grounds to which I have referred.

THE NEW YORK JOURNAL OF MEDICINE, For July, 1850.

For July, 1850.

THIS NO. contains seven original communications of much interest, among which are Dr. S. S. Furple's case of Monstrosity, and Professor Gilman's of Inversion of the Uterus, accompan'ed with plates; Bibliographical notices of all the late Medical publications, and a full synopsis of the improvements contained in the European and American journals. This Journal is established since 1843, and is published every other month, at \$3 per annum, each No. containing 144 pages. A liberal commission allowed to booksellers and physicians. Canvassing agents wanted in the country on liberal terms. Specimen numbers sent to any part of the country on application (post paid) to Specimen numbers sent to any part of tion (post paid) to R. F. HUDSON, Agent, N. Y., Jour. Med.
Jauney Court, 39 Wall

june 27—1cp Jauncy Court, 39 Wall st.

TN OBEDIENCE to the fourth section of the set o

IN OBEDIENCE to the fourth section of the act of the Congress of the United States, approved the 29th of March, 1850, entitled "An act to carry into effect the convention between the United States and the Emperor of Brazil of the twenty-seventh day of January, one thousand eight hundred and forty-nine," notice is hereby given that on the 29th day of June last the undersigned was appointed by the President of the United States, by and with the advice and consent of the Senate, Commissioner to receive, examine, and decide upon all such claims as may be presented to him and provided for by the convention between the United States and the Emperor of Brazil, concluded at Rio de Janeiro the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and forty-nine.

All claimants under the aforesaid act of Congress are required to produce their claims and evidence before the undersigned to complete and terminate the duties of his commission within one year from the time of its organization, it is desired that the claimants under the convention should present their claims and evidence at an early period.

GEO. P. FISHER.

BATH ALUM SPRINGS.

time by notice. That, sir, is the way in which I read that decree. Philip II. had a right to abrogate it the very next day after it was made, if he chose to do so; and I doubt not that it has been modified time and sgain since its promulgative.

The Bath Alum is a night stand for Helistell & Co's. daily line of stages from Richmond to the White Sulphur. The mail is furnished daily, east and west, by Wm. P. Farish & Co's. line; and it is a night stand for Helistell & Co's. daily line of stages from Richmond to the White Sulphur. The mail is furnished daily, east and west, by Wm. P. Farish & Co's. line; and it is a night stand for Helistell & Co's. daily line of stages from Richmond to the White Sulphur. The mail is furnished daily, east and west, by Wm. P. Farish & Co's. line; and it is a night stand for Helistell & Co's. daily line of stages from Richmond to the White Sulphur. The mail is furnished daily, east and west, by Wm. P. Farish & Co's. line; and it is a night stand for Helistell & Co's. line; and it is a night stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is a night stand for Helistell & Co's. line; and it is a night stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & Co's. line; and it is an ight stand for Helistell & C